

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARC EDWARD BOWMAN

Plaintiff,

No. CIV S-04-0986 DFL CMK PS

vs.

JO ANNE B. BARNHART, commissioner of
social security,

Defendant.

ORDER

Currently before the court is plaintiff's April 13, 2005 notice of objection, request for an extension of time and request for sanctions.

Plaintiff's notice of objection concerns his allegations that defendant continues to mail documents to plaintiff's old address. A review of the docket indicates that plaintiff filed a change of address on December 15, 2005, changing his address to 19131 Ridge Road, Pine Grove, CA 95665. Plaintiff requests that the court "direct defendant...to ...use plaintiff's correct mailing address, which appears at the top left side of page one of this pleading." The address on the top left side of the pleading is the 19131 Ridge Road address, with a line drawn through it and P.O. Box 381 written to the side.

///

1 The court is unsure if this is an attempt by plaintiff to change his address.
2 However, in order to change his address, plaintiff must notify the clerk with a proper change of
3 address notice. Local Rule 83-182(f). Accordingly, plaintiff's address of record remains the
4 19131 Ridge Road address.

5 Plaintiff's next requests an extension of time to respond to defendant's March 21,
6 2005 filing. He contends that the defendant's failure to file a certificate of service has lead to
7 confusion concerning when his opposition is due to be filed. He also states that in order to
8 prepare his opposition, he must travel to Sacramento. In light of plaintiff's stated need to travel
9 to Sacramento to prepare his opposition, the Court grants him a twenty day extension, until May
10 10, 2005 to file his opposition.

11 Finally, plaintiff requests that the court sanction defendant for "their bad faith
12 actions against plaintiff." Plaintiff does not expand on what bad faith actions the defendant has
13 taken, so the court assumes that plaintiff refers to the defendant's failure to file a certificate of
14 service. Although, under Federal Rule of Civil Procedure 5¹, defendant should have filed a
15 certificate of service at the time they sent plaintiff a copy of their March 21, 2005 filing,
16 plaintiff's receipt of the document indicates that defendant did send him a copy. Plaintiff has not
17 demonstrated that defendant engaged in bad faith action. Accordingly his request for sanctions is
18 denied.

19 ///

20 ///

21 ///

22 ///

23
24 ¹The court notes that since the advent of electronic filing, there is some confusion
25 concerning whether a certificate of service is still required. Some clerks have advised attorneys
26 that notice of electronic filing (NEF) now serves as the certificate of service. However, this is
problematic in pro se cases, for the very reasons raised here by plaintiff—how will a plaintiff,
who many not have internet access, know when a document is served. The court maintains that
electronic filing did not abrogate the requirements of Rule 5.

1 IT IS ORDERED that:

2 1. Plaintiff is granted an extension of time until May 10, 2005;

3 2. Plaintiff's request for sanctions is denied.

4 DATED: April 22, 2005

5 /s/ CRAIG M. KELLISON
6 Craig M. Kellison
7 UNITED STATES MAGISTRATE JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Plaintiff,

No. CIV

vs.

Defendants.

NOTICE OF SUBMISSION
OF DOCUMENTS

_____/

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

_____ completed summons form

_____ completed USM-285 forms

_____ copies of the _____
Complaint/Amended Complaint

DATED:

Plaintiff